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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,) No. 3:22-cr-0030-SLG-MMS
)
Plaintiff,	) <u>COUNT 1:</u>
	) WILDLIFE TRAFFICKING
v.	) CONSPIRACY
	) Vio. of 18 U.S.C. § 371
ALLEN WILLIAM OCKEY,)
	) <u>COUNTS 2-6:</u>
Defendant.	) WILDLIFE TRAFFICKING
	) Vio. of 16 U.S.C. §§ 3372(a)(2)(A)
	) and 3373(d)(1)(A)
)
	) <u>COUNTS 7-8:</u>
	) WILDLIFE TRAFFICKING
	) Vio. of 16 U.S.C. §§ 3372(a)(1) and
	) 3373(d)(1)(A)
)
	) <u>COUNTS 9-13:</u>
	) SMUGGLING WILDLIFE INTO THE
	) UNITED STATES
	) Vio. of 18 U.S.C. § 545

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. Coral reefs are among the most biologically diverse ecosystems on the planet, providing critical habitat benefits to both natural and human communities as well as providing coastline protection.

2. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) is an international treaty implemented to prevent species from becoming endangered or extinct due to international commercial trade. Under CITES, signatories to the Convention cooperatively regulate the international trade of animal and plant species, including the types of corals listed herein, to ensure commercial trade is not detrimental to the survival of wild populations.

3. CITES lists species under appendices, which are described by 50 C.F.R. § 23.4. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that are not presently threatened with extinction but may become so if their commercial trade is not regulated. As set forth in this Indictment all species of *Scleractinia* corals are included in Appendix II of CITES and cannot be sold in foreign commerce without a CITES permit.

4. The United States has been a party to CITES since July 1, 1975. Federal law implements CITES via 50 C.F.R. § 23, authority for which is derived from CITES and the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*

5. The Republic of the Philippines is one of six countries straddling the Coral Triangle, a 5.4 million-square-kilometer stretch of ocean that contains 75 per cent of the world's coral species, one-third of the Earth's coral reefs, and more than 3,000 species of fish. Poaching for corals and other factors has left only five per cent of coral reefs in the Philippines in “excellent” condition, with only one per cent in a "pristine" state.

6. A substantial international commercial market exists for wild coral species. As to the specific counts in this Indictment, the following corals are valued by the wholesale, retail, and private marine aquaria hobbyist industry. Each are found in the waters of the Republic of the Philippines and other locations in the Coral Triangle.

7. Unindicted co-conspirator G.A.B. is a citizen of the Republic of the Philippines, and a resident of Bacoor, Cavite, Luzon, Philippines. At all times relevant to this Indictment, unindicted co-conspirator G.A.B. would dive upon coral reefs in the Philippines, or cause others to, for the purpose of collecting corals to sell.

8. At all times relevant to this Indictment, defendant, ALLEN WILLIAM OCKEY (“OCKEY”), was a resident of the state of California. OCKEY owned and operated two online businesses, *West Coast Frags* and *Legit Fish Aquarium Service*.

9. As used in this Indictment, corals shipped by G.A.B. to OCKEY, and identified as “*chalices*” are a species of large polyp stony corals belonging to the order *Scleractinia*, which live on the seabed and form coral reefs. Because *Scleractinia* corals are listed in Appendix II of CITES, which restricts their commercial trade, sales of *Scleractinia* corals can only occur with a valid CITES permit. With respect to all counts in

this Indictment, no valid CITES permits accompanied any of the exported and imported shipments of corals from the Philippines to the United States.

10. “*Cans*” or “*Acans*” corals are also large polyp stony corals and are a subclass of the order *Scleractinia*. *Scleractinia* corals are listed in Appendix II of CITES, which restricts their commercial trade.

11. *Zoanthids* or “*Zoas*” are live soft corals which come in a variety of different colors and colonizing formations. “*Zoas*” are not CITES Appendix II listed.

12. *Mushroom* corals, or ‘*Shrooms*’ are a species of coral collected and sold for the hobbyist aquarist market. *Ricordea yuma*, also known as a ‘*yuma*’ is also a variety of mushroom coral. “*Shrooms*” and “*Yumas*” are not CITES Appendix II listed.

13. Pursuant to the law of the Republic of the Philippines, none of the coral species listed herein could be legally gathered, possessed, sold, or exported from the Republic of the Philippines.

RELEVANT LAW AND REGULATIONS

A. *Laws and Regulations of Republic of the Philippines*

Section 96 of the Republic of the Philippines Fisheries Code of 1998 provides:

14. *Ban on Coral Exploitation and Exportation*. It shall be unlawful for any person or corporation to gather, possess, sell or export ordinary, precious, and semi-precious corals, whether raw or in processed form, except for scientific or research purposes. All corals listed in this Indictment are ordinary, precious, or semi-precious corals.

B. Laws of the United States

Conspiracy

15. Title 18, United States Code, Section 371, makes it unlawful for two or more persons to conspire to commit an offense against the United States.

The Lacey Act

16. The Lacey Act is found at Title 16 U.S.C. § 3372, et. seq.

17. Under Sections 3372(a)(2)(A) and 3373(d)(1)(A) of the Lacey Act, it is unlawful for any person to knowingly import wildlife sold in violation of any foreign law or regulation.

18. Under Sections 3372(a)(1) and 3373(d)(1)(A) of the Lacey Act, it is unlawful for any person to knowingly import wildlife sold in violation of any law or regulation of the United States.

Smuggling

19. Title 18, United States Code, Section 545 makes it unlawful to fraudulently or knowingly import or bring into the United States, any merchandise contrary to law, or receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law.

Unindicted Co-conspirator G.A.B. and Defendant

20. Unindicted co-conspirator G.A.B. would unlawfully dive and collect, and would pay others to unlawfully dive and collect “*Chalices*”, “*Cans*,” “*Acans*”, *Zoanthids* or “*Zoas*”, *mushroom* or ‘*Shroom*’ *corals*, and *Ricordea yuma*, also known as a ‘*yuma*’

corals and other prohibited corals and animal species including but not limited to *Tridacna gigas*, otherwise known as a giant clam, considered an endangered species by the Philippine government, for the purpose of illegally selling the items for profit.

21. From on or about July 18, 2017, continuing up to on or about December 7, 2017, unindicted co-conspirator G.A.B. did gather, possess, sell and export precious and semi-precious corals to defendant, OCKEY, and at least 9 other United States Citizens in violation of the Philippines Fisheries Code, Section 96, and the Lacey Act. Most of the corals shipped, due to the method of shipment designed to conceal the illegal contents, died en route or shortly thereafter upon travel from the Philippines, through Alaska, to their destination.

22. Specifically, from on or about October 3, 2017, continuing up to on or about December 7, 2017, unindicted co-conspirator G.A.B. illegally sold, exported, and had shipped 5 shipments consisting of more than 300 coral fragments to defendant, OCKEY, for commercial resale. In August 2018, co-conspirator G.A.B. was arrested by Philippine authorities for the illegal gathering, possession, sales, and undocumented exporting of ordinary, precious, and semi-precious corals from Philippine coral reefs.

23. During all times relevant to this case, the defendant, ALLEN WILLIAM OCKEY, through his businesses *West Coast Frags* and *Legit Fish Aquarium Service*, intended and did sell the coral imported, purchased and received from unindicted co-conspirator G.A.B., and in fact placed orders for corals with G.A.B. via Facebook Messenger and provided payment to G.A.B. via Western Union.

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COUNT 1

24. Paragraphs 1-23 of this Indictment are hereby realleged in their entirety and incorporated by reference herein.

25. Beginning at a time unknown, but starting at least on or about July 18, 2017, through March 29, 2018, within the District of Alaska and elsewhere, the defendant ALLEN WILLIAM OCKEY, together with unindicted co-conspirator G.A.B., and together with others known and unknown to the grand jury, did knowingly and intentionally combine, conspire, confederate and agree with each other to commit the following offenses against the United States by unlawfully and knowingly importing, transporting, receiving, acquiring and purchasing in foreign commerce, wildlife, to wit the following corals: “*Chalices*”, “*Cans*,” “*Acans*”, *Zoanthids* or “*Zoas*”, *Mushroom* or ‘*Shroom*’ corals, which were taken, transported, and sold in violation the laws of the Republic of the Philippines, Section 96 of the Republic of the Philippines Fisheries Code, *Ban on Coral Exploitation and Exportation*, in that unindicted co-conspirator G.A.B. did gather, possess, sell and export ordinary precious and semi-precious corals, whether raw or in processed form, for commercial sale, and not for scientific or research purposes.

All of which is in violation of the Lacey Act, 16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(1)(A).

PURPOSE OF THE CONSPIRACY

26. The purpose of the conspiracy was for the illegal export and sale of corals by G.A.B. to defendant, ALLEN WILLIAM OCKEY, by false and fictitious customs declaration labels and/or smuggling of corals with non-CITES corals while concealing

the true nature of the illegally shipped corals by falsely claiming the packages contained gifts, toys and other items, in violation of the Lacey Act, 16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(1)(A).

OVERT ACTS

27. From on or about July 18, 2017, and continuing up through on or about March 26, 2018, defendant, ALLEN WILLIAM OCKEY, purchased for retail sale corals including but not limited to “*Chalices*”, “*Cans*,” “*Acans*”, *Zoanthids* or “*Zoas*”, *mushroom* or ‘*Shroom*’ corals, *Ricordea yuma*, also known as a ‘*yuma*’ from unindicted co-conspirator G.A.B., which defendant, ALLEN WILLIAM OCKEY, knew were collected illegally by G.A.B. in the Philippines, and that the illegally purchased corals would be shipped from the Republic of the Philippines through the District of Alaska to his residence.

28. On October 6, 2017, OCKEY Facebook messaged G.A.B. asking him to send larger coral colonies, “Next shipment are you able to ship a little larger colonies?” G.A.B. replied, “larger colonies need larger bags bro, which ups might not allow.” OCKEY responded, “Haha, ok bro. Don’t want to get in trouble.”

All of which is contrary to the Lacey Act, 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(A), and all of which is in violation of 18 U.S.C. § 371.

COUNTS 2 - 6

29. Paragraphs 1-23 of this Indictment are hereby realleged in their entirety and incorporated by reference herein.

30. From on or about October 3, 2017, and continuing up to on or about December 7, 2017, within the District of Alaska and elsewhere, the defendant, ALLEN

WILLIAM OCKEY, did knowingly import wildlife, to wit, hard corals from the order *Scleractinia*, which had been sold in violation of foreign law, to wit, Section 96 of the laws of the Republic of the Philippines, specifically the Philippines Fisheries Code of 1998, with each shipment listed below being a separate and distinct count:

Count	Shipment Date	Corals	Number of Bags of Coral Fragments	Valuation/Items Declared by G.A.B.
2	October 3, 2017	Mushrooms, zoanthids, and other unspecified corals	78	Plastic Items \$40
3	October 18, 2017	Zoas	Unknown	Plastic Items \$40
4	November 11, 2017	Mushrooms and unspecified corals	Unknown	Plastic Items \$73
5	November 16, 2017	Chalices and mushrooms	Approximately 100	Plastic items \$25
6	December 7, 2017	Chalices and mushrooms	100	Plastic toys and jugs \$25

All of which is in violation of the Lacey Act, 16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(1)(A).

COUNTS 7 - 8

31. Paragraphs 1-23 of this Indictment are hereby realleged in their entirety and incorporated by reference herein.

32. From or about October 18, 2017, and continuing up to on or about December 7, 2017, within the District of Alaska and elsewhere, the defendant, ALLEN WILLIAM OCKEY, did knowingly import wildlife in violation of the laws of the United States, to wit, hard corals from the order *Scleractinia*, which had been sold contrary to the provisions of the Convention on International Trade of Endangered Species of Wild Fauna and Flora,

as prohibited by the Endangered Species Act, 16 U.S.C. § 1538(c)(1) and (d)(1), and 50 C.F.R. § 23.13(f).) with each shipment below being a separate and distinct count:

Count	Shipment Date	Corals	Number of Bags of Coral Fragments	Valuation/Items Declared by G.A.B.
7	November 16, 2017	Chalices and mushrooms	Approximately 100	Plastic items \$25
8	December 7, 2017	Chalices and mushrooms	100	Plastic toys and jugs \$25

All of which is in violation of the Lacey Act, 16 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(A).

COUNTS 9 - 13

33. Paragraphs 1-23 of this Indictment are hereby realleged in their entirety and incorporated by reference herein.

34. On or about October 3, 2017, continuing up to on or about December 7, 2017, in the District of Alaska and elsewhere, the defendant ALLEN WILLIAM OCKEY did fraudulently and knowingly receive and buy corals from the Republic of the Philippines, knowing the same to have been imported or brought into the United States contrary to law, with each shipment being a separate and distinct count:

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Count	Shipment Date	Corals	Number of Bags of Coral Fragments	Valuation/Items Declared by G.A.B.
9	October 3, 2017	Mushrooms, zoanthids, and other unspecified corals	78	Plastic items \$40
10	October 18, 2017	Zoas	Unknown	Plastic items \$40
11	November 11, 2017	Mushrooms and unspecified corals	Unknown	Plastic items \$73
12	November 16, 2017	Chalice and Mushrooms	Approximately 100	Plastic items \$25
13	December 7, 2017	Chalice and Mushrooms	100	Plastic toys and jugs \$25

All of which is in violation of 18 U.S.C. § 545.

A TRUE BILL.

s/ Grand Jury Foreperson
GRAND JURY FOREPERSON

s/ Steve Skrocki
STEVE SKROCKI
Assistant U.S. Attorney
United States of America

s/ Charisse Arce
CHARISSE ARCE
Assistant U.S. Attorney
United States of America

s/ John E. Kuhn, Jr.
JOHN E. KUHN, JR.
United States Attorney
United States of America

DATE: April 19, 2022